

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|-----------|
| UNITED STATES OF AMERICA, |) | |
| |) | 8:10CR169 |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| THOMAS J. HERINK, |) | |
| |) | |
| Defendant. |) | |

This matter is before the court on the motion to continue by defendant Thomas J. Herink (Herink) (Filing No. 55). Herink seeks a continuance of the trial scheduled for March 28, 2011. Herink has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Herink consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 56). Herink's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Herink's motion to continue trial (Filing No. 55) is granted.
2. Trial of this matter as to all defendants is re-scheduled for **May 31, 2011**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **February 18, 2011, and May 31, 2011**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 18th day of February, 2011.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge